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SUBJECT: NCC UP, BUT CAN IT RUN?

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for concern is that of the four originally nominated commissioners with telecom expertise, three have resigned, leaving TSU-nominated Hsieh Jin-nan as the only remaining commissioner with a telecom industry background. Press accounts suggest Hsieh has been under some pressure to resign as a sign of solidarity with his Pan-Green colleagues, but he has thus far refused to do so.

¶6. On February 22, the Commission had its first official meeting, unanimously choosing KMT-nominated Su Yeong-chin as Chairman. DPP-nominated Shi Shi-hao and PFP-nominated Liu Zong-de were unanimously selected as vice-chairman. Su denied accusations that there was a pre-arranged deal to allow each group a leadership role and in a nod to critics of the nomination process, said the NCC's most important task was to first establish its credibility. Su reaffirmed his desire to see the NCC operate independent of political pressures but estimated that it could take more than a year for the NCC to become an effective independent regulatory body.

¶7. The NCC will oversee the operations of the Directorate General of Telecoms (DGT) and sections of the Government Information Office (GIO) responsible for broadcast regulations and licensing. However, it is still unclear how the lines of authority will be drawn and there are certain to be difficulties in melding the work cultures of these two very different offices. According to DGT, there are plans to house all NCC staff in one building, but there are disagreements over the location and layout of the future office.

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The Grand Justices Still Hold the Trump Card
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¶8. The Council of Grand Justices was expected to rule on the constitutionality of the NCC as early as February 17 but

Judicial Yuan officials speaking to the press refused to predict when a decision might be forthcoming. The officials pointed to the potential impact of the interpretation and suggested the issue needed further study and discussion before the Justices would be make any decision. If the Grand Justices rule that the NCC law violates the power of the Executive Yuan to appoint commissioners, the current NCC would become invalid and the LY would presumably have to reconsider the nomination and review process.

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Local Business Grasping at Straws

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¶9. Despite the political uncertainty and questions about the NCC's credibility, many in the local broadcast community expect that the Commission will have a quick and positive impact on the clarity of broadcast and telecom regulations and the operating environment in Taiwan. At an AmCham-sponsored seminar on digital convergence February 22, comments from cable operators and content providers were almost uniformly positive expressions of confidence and optimism. "No matter what, it has to be better than GIO," said one media company executive. Telecom experts were more cautious in their assessments, noting the political battles that surrounded the establishment of the Commission concerned media issues and that most commissioners with telecom expertise have already resigned. Both groups expected the Council of Grand Justices would try to find a way to stay out of the controversy as much as possible, even if that meant delaying a ruling on the constitutionality of the law indefinitely.

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Comment: Unclear future is no future

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¶10. The establishment of the NCC has been torn by political infighting from the beginning. Given the advantages of the Pan-Blue parties in appointing commissioners and the subsequent resignation of most of the ruling-party nominated commissioners, it is hard to see how this body will be able

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to establish its credibility as an independent and non-partisan regulator in the near future. The resignation of most of the commission's telecom expertise is also a worrying sign for the telecom industry as they face digital convergence and competition from cable operators. Finally, the Council of Grand Justices continues to hold the sword of Damocles over the head of the newly formed commission by delaying a decision on the NCC's constitutionality. This continued uncertainty will not help the NCC's efforts to establish its legitimacy and will make it more difficult for local industry to move ahead with long-term plans to prepare for digital convergence. End Comment.

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